



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

FILE: [REDACTED] Office: Nebraska Service Center

Date: AUG 16 2000

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Refugee Travel Document Pursuant to Title 8, Code of Federal Regulations, Part 223.2(b)(2)

IN BEHALF OF PETITIONER: Self-represented

INSTRUCTIONS:

Public Copy

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS


Terrance M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Nicaragua who is seeking to obtain a refugee travel document pursuant to 8 C.F.R. 223.2(b)(2).

The director denied the application after determining that the applicant has failed to submit additional evidence as had been requested to establish his status as an asylee or a refugee.

On appeal, the applicant states that it is very important for him to travel to Nicaragua to see his son who is in the hospital because of a car accident.

8 C.F.R. 223.2(b)(2) states, in pertinent part:

Except as otherwise provided in this section, an application may be approved if filed by a person who is in the United States at the time of application, and either holds valid refugee status under section 207 of the Act, valid asylum status under section 208 of the Act, or is a permanent resident and received such status as a direct result of his or her asylum or refugee status.

The application for refugee travel document was filed on October 28, 1999. On November 16, 1999, the applicant was requested to submit evidence that he qualifies as a refugee or asylee for the purpose of issuance of a refugee travel document. He was further advised that:

To qualify, you must have been admitted, paroled, or granted status in the United States as a refugee or an asylee, or you must have been admitted or adjusted to lawful permanent resident status based on a refugee or asylee claim. You must submit a photocopy of your I-94 card, your I-551 card (both front and back sides, which clearly shows the photo and identity information), or other documentation to show that you have been granted a status making you eligible for a refugee travel document.

The record of proceeding contains a copy of the applicant's Form I-94 reflecting that he was admitted to the United States as a B-2 visitor for pleasure on May 1, 1994. The applicant, on appeal, submits a copy of his application for adjustment of status to that of a lawful permanent resident pursuant to section 202 of Public Law 105-100 of the Nicaraguan Adjustment and Central American Relief Act (NACARA), filed with the Service on October 5, 1998. However, he failed to establish that he has been granted such

status; or that his status has been adjusted pursuant to section 207 or 208 of the Act; or that he is a permanent resident and received such status as a direct result of his asylum or refugee status. Therefore, the application cannot be approved.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. 1361. The applicant has not met that burden. Accordingly, the appeal will be dismissed. This decision, however, is without prejudice to the filing of an application for an advance parole (Form I-131).

ORDER: The appeal is dismissed.